

**LATHAM & WATKINS LLP**

Kevin M. McDonough  
Michael Lacovara (admitted *pro hac vice*)  
Arthur F. Foerster (admitted *pro hac vice*)  
Johanna Spellman (admitted *pro hac vice*)  
885 Third Avenue  
New York, New York 10022  
(212) 906-1200

*ATTORNEYS FOR DEFENDANT BMW OF NORTH AMERICA, LLC*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

JOSHUA HU, et al., individually and  
on behalf of all others similarly  
situated,

Plaintiffs,

v.

BMW OF NORTH AMERICA LLC, a  
Delaware corporation; and  
BAYERISCHE MOTOREN WERKE  
AKTIENGESELLSCHAFT (BMW  
AG), a corporation organized under the  
laws of Germany, ROBERT BOSCH  
GMBH, a corporation organized under  
the laws of Germany; and ROBERT  
BOSCH LLC, a Delaware Limited  
Liability Company,

Defendants.

Civ. Action No. 2:18-cv-04363  
(KM) (JBC)

**Oral Argument Requested**

**MOTION DAY:** February 3, 2020

*Filed Electronically*

**NOTICE OF DEFENDANT BMW OF NORTH AMERICA, LLC's MOTION  
TO DISMISS**

*(Oral Argument Requested)*

PLEASE TAKE NOTICE that on February 3, 2020, at 9:00 a.m., or as soon thereafter as counsel may be heard, the undersigned attorneys for Defendant BMW of North America, LLC (“BMW NA”) shall move before the Honorable Kevin McNulty, U.S.D.J., at the United States District Court for the District of New Jersey, Martin Luther King, Jr. Building & U.S. Courthouse, 50 Walnut Street, Newark, New Jersey, for the entry of an order pursuant to Federal Rules of Civil Procedure 9(b), 12(b)(1) and 12(b)(6) dismissing with prejudice the First Amended Consolidated Class Action Complaint in the above-captioned action and taking judicial notice of certain relevant matters and for such other relief as the court deem just and proper.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to the Stipulation and Scheduling Order entered by this Court on October 16, 2019, Plaintiffs’ opposition to BMW NA’s Motion to Dismiss is due on or before December 13, 2019, and BMW NA’s reply in further support of its Motion to Dismiss is due on or before January 17, 2020.

**PLEASE TAKE FURTHER NOTICE**, that, in support of this motion, BMW NA will rely upon the Memorandum of Law, the Declaration of Michael Lacovara, and the Request for Judicial Notice with exhibits attached thereto, as well as any submissions offered on reply.

**PLEASE TAKE FURTHER NOTICE**, that a proposed form of Order is also submitted herewith.

Dated: November 6, 2019  
New York, New York

Respectfully submitted,

LATHAM & WATKINS, LLP

/s/ Kevin M. McDonough\_\_\_\_\_  
Kevin M. McDonough